

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA, ex	:	Case No. 1:00cv00463
rel. ANDREW M. GARNER, III,	:	(Senior Judge S. Arthur Spiegel)
:		
Plaintiffs,	:	
:		
vs.	:	
:		
ANTHEM INSURANCE COMPANIES, INC., et al.,	:	JOINT MOTION OF RELATOR AND DEFENDANT FOR DISMISSAL WITH PREJUDICE
Defendants.	:	

On November 16, 2005, the Court entered an Order conditionally dismissing this case subject to reopening if the settlement discussed in Chambers was not concluded. Doc. 66, Order. On January 10, 2006, the Court entered an Order unconditionally dismissing this action in part as follows:

IT IS HEREBY ORDERED that this action is dismissed...with the exception of any claims by the Relator for expenses, attorneys' fees and costs under 31 U.S.C. § 3730(d)(1), and with the exception of Count VI of the Complaint, for retaliatory discharge under 31 U.S.C. § 3730(h). Count I of the Complaint, with respect to AdminaStar Printmail and Anthem Prescription, is dismissed with prejudice and the remainder of the Complaint, with the exception of any claims by the Relator for expenses, attorneys' fees and costs under 31 U.S.C. § 3730(d)(1), and with the exception of Count VI of the Complaint, for retaliatory discharge under 31 U.S.C. § 3730(h) is dismissed without prejudice.

Doc. 68, Order.

Relator Andrew M. Garner, III ("Relator") and Defendant Anthem Insurance Companies, Inc. ("Defendant") have now entered into a final written settlement agreement (the "Settlement

Agreement") resolving Relator's claims for expenses, attorneys' fees and costs under 31 U.S.C. § 3730(d)(1) and Count VI of the Complaint concerning Relator's retaliatory discharge claims under 31 U.S.C. § 3730(h).

Pursuant to Fed. R. Civ. P. 41(a), Relator and Defendant now jointly move this Court to dismiss all remaining claims with prejudice, including Count VI of the Complaint and all claims by the Relator for expenses, attorneys' fees and costs under 31 U.S.C. § 3739(d)(1). Pursuant to the Settlement Agreement and to *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375 (1994), the parties also respectfully move that this Court retain jurisdiction over the Settlement Agreement.

The parties are submitting a proposed Order granting this Motion for the Court's consideration.

Respectfully submitted,

/s/ Paul B. Martins
 Paul B. Martins (0007623)
 Helmer Martins Rice & Popham Co., LPA
 105 East 4th Street, Suite 1900
 Cincinnati, OH 45202
 (513) 421-2400
 (513) 421-7902 (fax)
 pmartins@FCAlawfirm.com
Trial Attorney for Relator

/s/ J. Timothy Keller
 J. Timothy Keller
 Aschemann Keller LLC
 108 West Jackson Street
 Marion, IL 62959
 (618) 998-9988
 (618) 998-0796 (fax)
tkeller@quitamlaw.org
Attorneys for Relator

/s/ James A. Dyer

James A. Dyer (0006824)

Barbara A. Duncombe (0072199)

Katherine L. Early (0075380)

SEBALY SHILLITO + DYER

A Legal Professional Association

1900 Kettering Tower

Dayton, OH 45423

937/222-2500

937/222-6554 (fax)

jdyer@ssdlaw.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Motion of Relator and Defendant for Dismissal with Prejudice, was electronically filed on January 16, 2006. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Paul B. Martins